CF1061

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

WRIT PETITION NO. 1848 OF 2003

PETITIONER : S.L.Nayak, son of Shyam Lal Naik
aged about 58 years,
Accountant, Janpad Panchayat
Dabhra, District-Janjgir-Champa, (C.G)

_V_E_R_S_U_S_

RESPONDENTS : 1. Janpad Panchayat, Dabhra,
through its Chief Executive Officer,
at Dabhra, District Janjgir-Champa,
(C.G.)

: 2. Zila Panchayat,
through its Chief Executive Officer,
Janjgir-Champa, (C.G.)

P. R. No. 12.06.03
Presented by Shri S. Pandey
dated 21.06.03

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(71)

आदेश पत्रक

मामला क्रमांक WP 1848/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	26-8-2003 Shri Prashant Mishra, counsel for the petitioner. Shri Rajesh Pandey, counsel for the respondents. By this petition filed under Article 226/227 of the Constitution of India, the petitioner seeks to challenge the decision of the respondents not allowing him to continue after attaining the age of 58 years. The petitioner's case is that he was working as Accountant in the services of the Janpad Panchayat, Dabhra. In the meeting dated 15th January 2003 Janpad Panchayat considered various issues including the question of extension of the service of the petitioner who was otherwise to retire on 31st March 2003 on attaining the age of 58 years and the Janpad Panchayat resolved to recommend the case of the petitioner for extending his services for further two years. The Commissioner, Bilaspur has issued a letter addressed to the Collector of the district on 16th April 2001 to the effect that several employees of Zila Panchayat/Janpad Panchayat have sent applications to his office for extension of service, however, under Janpad Panchayat Employees (Recruitment, Qualification and Condition of Service) Rules, 1976 authorizes and empowers the Janpad Panchayat which is a body corporate to take a decision its own level. Similar kind of instruction was issued by the State Government vide letter dated 6-1-2003. The respondent No.1 convened a meeting to decide the question of extension of service of the petitioner. Similar requisition was also	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

submitted by members on 9-4-2003. The Janpad Panchayat had also sought guidance from the Collector Janjgir-Champa vide its letter dated 4-3-2003. The Zila Panchayat had issued a letter after obtaining the entire particulars and credentials of the petitioner and after being satisfied about the service record of the petitioner. The age of superannuation for the employees of State Govt. is 60 years. The age of superannuation of Panchayat employees is 58 years. The provisions for extension has been made for the benefit of the employee and to protect the Panchayat for being mismanaged on account of absence of competent and experience hand. Ultimately, the petitioner has prayed that a writ in the nature of mandamus be issued for extension of service of the petitioner as Accountant of Janpad Panchayat Dabhra.

Return has been filed on behalf of the respondents.

I have heard the learned counsel for the parties.

In this connection the relevant provision is Rule 33 of the Madhya Pradesh Panchayat Service (Recruitment and General Conditions of Services) Rules, 1999. The rule 33 reads as under:-

> "(1) The age of superannuation for Panchayat employees other than teaching staff and class IV employees, shall be 58 years. For teaching staff and class IV employees age of superannuation shall be 60 years.
>
> (2) In exceptional cases with the prior permission of prescribed authority Panchayat can extend the age

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

of superannuation of any of its employee for maximum period of two years:

Provided that extension of more than one year will not be sanctioned at a time.

(3) Notwithstanding anything contained in these rules, a Panchayat employee, after completion of 20 years of service, with due permission of Panchayat, may seek voluntary retirement.

(4) On attaining 55 years of age or after rendering 25 years of service by a Panchayat employee, the Panchayat in public interest, scrutiny of the service record of the employee, retire any Panchayat employee, at any time without assigning any reason of doing so. However, in all such cases the Panchayat shall have to issue a prior notice of three months before retiring him or has to pay him an amount equal to three months salary at an earliest after his retirement."

A bare perusal of this rule reveals that in the case of teaching staff the age of superannuation shall be 60 years and for any other employee it shall be 58 years. The sub-rule 2 envisaged that in exceptional cases with the prior permission of prescribed authority Panchayat can extend the age of superannuation of any of its employee for maximum period of two years. This rule does not give any right to any Panchayat employee to continue after 58 years of age. However, if the prescribed authority is satisfied and that too in exceptional cases only the age can be extended up to 60 years.

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In this case as submitted by the learned counsel for the petitioner the prescribed authority has not approved the case of the petitioner for extension of his service. Moreover, in order to make out an exceptional case it is necessary that if any person is not available for the work which the retiring employee was performing or the retiring employee was involved in such a project work which is likely to take time and in the midst of every project the retirement of the employee is not in the interest of the department or any other kind of exceptional case.

In this case, the petitioner has not been able to show any ground in his favour which makes out an exceptional case in his favour. Moreover, there is nothing on the record which shows that some exceptional circumstances were existing for extension of the service of the petitioner.

In view of the above, the petitioner has not been able to make out a case in his favour, I am of the opinion that there is no merit in this petition. The same is liable to be dismissed and it is dismissed.

As a last submission, the learned counsel for the petitioner submitted that even though the petitioner has not sought any relief in this petition, but as per the rules, the petitioner is entitled for his pensionary benefits on the date of retirement and so far even the case of the petitioner for granting retiral benefits the Government has not been processed. In normal conditions two years in advance for retiral benefits the prescribed authority is required to process the case of a government employee. It is surprising that the even after the retirement of the petitioner the concerned

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भामला क्रमांक ..... सन् 200

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authority has not taken up the case for pension and other retiral benefits, therefore, it is the duty of the respondents to see that the case of the petitioner is processed and the retiral benefits are made available to him at the earliest.

With these observations, the writ petition is disposed of.

Consequently, M.(W.)P. No. 1673/2003 and I.A. No. 5531/2003 also stand disposed of.

Sd/-
L.C.BHADOO
Judge

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